



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

**PRICE DANIEL
ATTORNEY GENERAL**

August 6, 1948

**Mrs. E. L. Avery, President
State Board of Hairdressers and Cosmetology
Austin, Texas**

Opinion No. V-651

**Re: Construction of Section 11 (f),
a rider to the current Departmental Appropriation Bill, and
Section 7 of Article 734b,
V. P. C.**

Dear Madam:

Your letter requesting an opinion of this office,
in part, reads:

"Sections 4 (a) and 4 (b) of Article 734b
of the Penal Code of the State of Texas sets
up the Board of Hairdressers and Cosmetologists
showing the Members are appointed by the Govern-
or, take oath of office, and must be confirmed by
the Senate.

"Section 7 of Article 734b of the Penal
Code of the State of Texas gives members of the
Board permission to attend conventions and be
reimbursed for such expenses.

"In view of the above Sections of Article
734b this Board respectfully requests your opin-
ion as to whether or not the members of this
Board are required to comply with Section 11(f)
of the rider to Senate General Appropriation
Bill No. 391 of the 50th Legislature wherein it
states:

"'...No moneys herein appropriated shall
ever be spent to pay the traveling expenses of
any State employee to any type of convention
within the State or without the State except
upon advance written approval of the Attorney
General as being for State's business.'"

Section 6 and the pertinent part of Section 7 of Article 734b respectively read:

"Sec. 6. The State Treasurer of the State of Texas is hereby designated as custodian of all revenues derived under the provisions of this Act, and all such funds shall be credited by the State Treasurer to the 'State Board of Cosmetologists Fund.'"

"Sec. 7. The members of the Board shall each receive a salary of Three Thousand Six Hundred (\$3,600.00) Dollars per year, payable in equal monthly payments, together with actual expenses incurred in the performance of their official duties, providing such expenses shall be allowed if and when audited, approved and allowed by the State Comptroller. Such salary of the Board members and Executive Secretary, as well as all other expenses incidental to the discharge of their duties, shall be allowed, including reasonable expenses in attending schools for the purpose of taking post graduate courses in beauty culture and attending conventions of beauty culturists, both state and national; providing in no event shall such expenses for any one Board member exceed the sum of One Hundred (\$100.00) Dollars for any one convention or post graduate course attended within the state nor more than Two Hundred (\$200.00) Dollars for any one convention or post graduate course attended out of the State; . . . All salaries and expenses shall be paid out of the fund in the State Treasury to the credit of the Texas Board of Cosmetology on requisition signed by the President and Secretary of the Board and a warrant of the State Comptroller."

You have correctly quoted in your letter the pertinent part of Section 11 (f) of the general riders to the Departmental Appropriation Bill for the current biennium. (S. B. No. 391, Acts 50th Leg., p. 936)

Appropriations made to the Board for the current biennium are found at pages 847 and 848, Acts 50th Legislature. Item 18 thereof is an appropriation of \$6,000 for each year to pay traveling expenses of members of the

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Board. One of the special riders attached to these appropriations reads:

"Subject to the limitations set forth in the provisions appearing at the end of this Act all appropriations made herein for the State Board of Hairdressers and Cosmetology shall be paid out of the receipts received under and by virtue of the provisions of Chapter 116, Acts Regular Session, 44th Legislature and any amendments thereto." (Art. 734b, V. P. C.)

The appropriation for travel expense of members of the Board contained in Item 18 must be considered in connection with this special rider and the pertinent part of Section 11 (f) to which that rider refers.

This office has heretofore construed these identical riders which have appeared in appropriation bills of former years and has consistently held that advance written approval by the Attorney General was a necessary prerequisite for authority of the Comptroller to pay traveling expenses incurred in attending any type of convention. For your information, we are enclosing herewith Opinions Nos. O-4703 and O-4734.

It is our opinion that members of the State Board of Hairdressers and Cosmetologists are required to comply with that part of Section 11 (f), quoted in your letter, and obtain "advance written approval" of the Attorney General before traveling expenses incurred in attending any type of convention, either within or without the State, may be paid by the Comptroller.

Section 44 of Article III of our Constitution, among other things, in substance provides:

The Legislature shall not grant by appropriation or otherwise any amount of money out of the Treasury of the State, to any individual, on a claim real or pretended, when same shall not have been provided for by pre-existing law.

The Legislature has specifically provided in Sec. 7 of Article 734b that members of the Board shall each receive reasonable expenses incurred in attending conventions of beauty culturists, both state and national, within the limitations imposed therein. Therefore, if a member of the Board should attend such a convention without having obtained advance written approval of the Attorney General, such member may submit a claim for expenses so incurred to the Legislature for approval. The Legislature may properly make an appropriation from the State Board of Cosmetologists Fund to pay the claim, subject to the limitations imposed by Section 7 as to amounts allowed for attending one convention, for that Section is a pre-existing law for such purpose.

SUMMARY

The provision in Section 11(f) of the Departmental Appropriation Bill for the current biennium, requiring advance written approval of the Attorney General that applicant's attendance at a named convention would be for State's business, applies to members of the State Board of Hairdressers and Cosmetologists, Acts. 50th Leg., S. B. 391, sec. 11(f), p. 938; Art. 734b, V. P. C.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

Bruce W. Bryant

By

Bruce W. Bryant
Assistant

BWB:wb
Encls.

APPROVED:

Fagan Hickson
FIRST ASSISTANT
ATTORNEY GENERAL